The Park Federation
ACADEMY TRUST

Capability Policy

Approved by	Board of Directors		
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Summary of Changes

Version	Date	Summary of Changes	Approved By
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1. INTRODUCTION

1.1. Purpose

The aim of this policy is to identify and address capability issues. For the purpose of this policy, capability issues may include:

- poor standards of performance due to a lack of knowledge, skill, ability and experience;
- poor attendance or inability to attend work due to absence (other than sickness).

Attendance issues resulting from sickness and/or injury are managed through the Sickness Absence Policy and issues relating to misconduct are managed through the Disciplinary Policy.

This policy provides a fair and consistent process to support an employee to improve their performance and/or attendance to acceptable and agreed standards.

It is important to recognise that genuine incapability is not misconduct and should be treated supportively. It can occur for a variety of reasons and there is an expectation that all employees are provided with the appropriate support, assistance and training to develop new skills to fulfil their duties and responsibilities.

If at any stage in the process poor work performance is attributed to misconduct such as wilful negligence, laziness, carelessness or other wilful acts, the Disciplinary Policy may be invoked.

If at any stage in the process absence is attributed to sickness and/or injury, the Sickness Absence Policy may be invoked.

1.2. Scope

This policy applies to all employees of The Park Federation Academy Trust, except for employees during their probationary period or early careers teachers (ECT) during their induction years.

Timescales will be prorated for part-time employees.

The recognised trade unions have been consulted.

1.3. Definitions

“Working days” refers to Monday to Friday, not including bank/public holidays or weekends. For term time staff, working days refers to contractual working days. The academy calendar should be referred to for school term time and holiday dates.

“Part-time” refers to working less than 5 days per week. For those that work different hours on different days of the week, any time off will be taken as the relevant proportion of their working time and calculated accordingly.

“Principal” within this document may denote a Principal at any of the Trust’s academies, or someone of the same level or higher depending on the specific circumstances e.g. the Chief Operating Officer (COO), Chief Education Officer (CEdO) or the Chief Executive Officer (CEO).

“Senior Leadership Team” (SLT) within this document may denote a senior leader at any of the Trust’s academies or Central Trust, or someone of the same level or higher depending on the specific circumstances.

"Capability Manager" refers to the person assigned to manage an employee's capability process. Below details who is authorised to act as a Capability Manager:

Individual	Capability Manager*
Employee	SLT
SLT	Principal
Principal	CEdO or CEO
CEO	Board Director

*a person of the same or higher level may be appointed.

1.4. Confidentiality

All capability matters should be treated in a confidential manner with information only being shared on a need to know basis for the purposes of meeting service delivery requirements and to implement and monitor this policy.

If, for reasons of confidentiality or sensitivity, an employee does not feel able to discuss details of their absence with the capability manager, they may speak to the HR department. However, it is considered that the principle responsibility for managing the processes outlined in this document remains with the capability manager.

The Trust does not consent to the electronic recording in any meetings in the capability process, in part or in whole, including the recording and/or automated minuting of online meetings.

It is not permissible at any point to electronically record in secret any meetings in the capability process, in part or in whole.

1.5. Record Keeping

All documentation will be kept on the employee's file. The information contained in these records will be disclosed to the capability manager and those aiding in the management of the employee's capability concerns e.g. HR department, Occupational Health.

1.6. References

1.6.1. Teachers

At the point of a reference request or an employee's employment ending with the Trust, formal capability proceedings under this policy in the preceding two years will result in the following information being disclosed on a reference:

- the concerns which gave rise to the capability proceedings;
- the duration of the proceedings;
- the outcome, including any warnings.

The Trust will not provide any other information regarding an employee's capability record as part of a reference unless the employee gives explicit consent to do so

1.6.2. Support staff

At the point of a reference request or an employee's employment ending with the Trust, the following details may be disclosed on a reference:

- Formal live warnings up to dismissal;
- Pending or on-going review periods the employee is aware of;

- Pending capability meetings, review meetings and capability hearings the employee is aware of.

The Trust will not provide any other information regarding an employee's capability record as part of a reference unless the employee gives explicit consent to do so.

2. MANAGING CAPABILITY

2.1. Performance concerns

2.1.1. Informal stage

Before invoking the capability procedure for performance related concerns, informal support under the performance management policy should be completed.

2.1.2. Progressing to capability procedure

Following support under the informal stage, if the required performance standards are not met when no warning is on file or during the live period of a first written warning, a capability meeting should be arranged as detailed under section 3.1.

Following support under the informal stage, if the required performance standards are not met during the live period of a final written warning, a capability hearing should be arranged as detailed under section 3.2.

2.2. Attendance concerns

2.2.1. informal counselling meeting

If an employee's capability of fulfilling their role to the required standards is impacted by absence (other than sickness absence) the capability manager will invite the employee to an informal counselling meeting in the first instance to:

- Review the employee's absence record;
- Highlight any patterns or concerns (for example, if an employee has excessive time off for emergency leave);
- Offer support and advice as required;
- Give the employee the opportunity to inform the capability manager of any issues or factors which have contributed to their absence; and
- Consider any mitigating factors (for example a change in personal circumstances).

The employee will be given 5 working days' notice of the informal counselling meeting and may be accompanied by a workplace colleague.

The capability manager may be accompanied by a note taker at the meeting.

Attendance standards over a 12 working week period will be set. If the desired improvement to attendance is made, no further action will be taken. If the required attendance standards are not met, the matter should be progressed to the capability procedure as detailed under section 2.2.2.

2.2.2. Progressing to capability procedure

Following an informal counselling meeting, if the required performance standards are not met when no warning is on file or during the live period of a first written warning, a capability meeting should be arranged as detailed under section 3.1.
Following an informal counselling meeting, if the required performance standards are not met during the live period of a final written warning, a capability hearing should be arranged as detailed under section 3.2.

2.3. Suspension

If, at any stage during the procedure, the capability manager/panel has evidence that the education of pupils or safety of the employee or others to be seriously jeopardised, consideration may be given to suspending the employee.

Suspension can only be sanctioned by a Principal, however, a member of SLT can send an employee home pending ratification from the Principal.

The employee should be provided with confirmation of the suspension in writing, giving details of the reason(s) and the conditions of the suspension, including:

- Not to enter school premises without prior permission;
- Not to contact anyone who is part of the school community in respect of school related matters, including staff, pupil, governors, parents, contractors etc, without prior permission;
- A request to return school property that has not been personally assigned to the employee e.g. teaching material, school books, classroom tablets etc;
- To remain available during normal working time and that undertaking other work, including voluntary work, during this time is not permitted;
- The name and contact information of the designated school contact and HR department.

Suspension should not be regarded as prejudging the matter. The period of suspension should be as brief as possible and should be kept under review. If at any stage during or at the end of the procedure it is considered that the suspension should be lifted, the employee will be informed by the Principal immediately.

An employee on suspension must remain available during normal working hours. Periods of absence e.g. sickness, should be reported to the designated school contact in the normal manner. Term time staff are not permitted to take annual leave during school time. For all year round workers, annual leave requests should be made to the designated school contact in the normal manner. Requests for any other leave e.g. special leave, should be made to the designated school contact in the normal manner.

An employee on suspension must not take alternative employment during their normal working hours, paid or unpaid, whilst under contract of employment with the Trust.

3. CAPABILITY PROCEDURE

3.1. Capability Meeting

3.1.1. Capability meeting

The employee will be given at least 5 working days' written notice of the capability meeting. The letter will include:

- The date, time and place of the meeting;
- The reason for the meeting;

- A copy of the capability policy;
- The employee's entitlement to be accompanied by a trade union official or workplace colleague at the meeting;
- That the outcome of the meeting may include a first written warning or a final written warning;
- Details of the capability manager and any other attendees.

At the capability meeting, the capability manager will:

- Confirm the area(s) of concern, and where relevant provide details of dates of absence;
- Give clear guidance on the improved standards needed to ensure that the employee can be removed from the formal capability procedure (this may include the setting of new objectives focused on the specific weaknesses that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made);
- Explain any support that will be available to help the employee improve their performance/attendance;
- Set out the timetable for improvement, explain how performance/attendance will be monitored and reviewed, and set a date for the review meeting;
- Give consideration to issuing a warning;
- Explain that if the employee was to progress to a capability hearing, consideration will be given to dismissal.

Should the employee be unable to attend the meeting for any reason, they may request an alternative date. The alternative date should be within 5 working days of the original meeting date. If the employee is unable to attend the rescheduled meeting for any reason, or fails to attend, the meeting may proceed and a decision made in the employee's absence. The employee will be given the opportunity to have their companion attend or provide a written statement in their absence.

Unavailability to attend meetings due to sickness will be reviewed on a case by case basis, where the employee may be referred to occupational health and/or consent sought to contact the employee's doctor/specialist for further guidance.

3.1.2. Outcome of capability meeting

The outcome of the capability meeting may include:

- no warning being given;
- a first written warning being issued;
- a current live first written warning being extended for a further 12 months;
- a final written warning being issued;
- any further action the capability manager deems appropriate.

The capability manager will write to the employee within 5 working days of the capability meeting, detailing:

- the area(s) of concern, and where relevant provide details of dates of absence;
- the improved standards needed to ensure that the employee can be removed from the formal capability procedure;
- any support that will be available to help the employee improve their performance/attendance;
- the timetable for improvement and how performance/attendance will be monitored and reviewed;
- the date and time of the review meeting;
- relevant information for any warning issued;
- Explain that if the employee was to progress to a capability hearing, consideration will be given to dismissal.

3.1.3. Review period

During a review period the employee's performance/attendance will be monitored and reviewed as indicated in the capability meeting and the recommended support will be provided.

A review period should be set with the employee's role, responsibilities and the areas of concern in mind, however, performance review periods should be no longer than 30 working days and attendance review periods no longer than 12 working weeks.
At the end of the review period the employee will be invited to attend a review meeting.

3.1.4. Review meeting

At the review meeting, the capability manager will assess the employee's progress against the standards set at the capability meeting.

Should the employee be unable to attend the meeting for any reason, they may request an alternative date. The alternative date should be within 5 working days of the original meeting date. If the employee is unable to attend the rescheduled meeting for any reason, or fails to attend, the meeting may proceed and a decision made in the employee's absence. The employee will be given the opportunity to have their companion attend or provide a written statement in their absence.

Unavailability to attend meetings due to sickness will be reviewed on a case by case basis, where the employee may be referred to occupational health and/or consent sought to contact the employee's doctor/specialist for further guidance.

3.1.5. Outcome of review meeting

If the capability manager is satisfied that the employee has made sufficient improvement, the capability procedure will cease, and for performance related matters the employee will revert back to the performance management process.

If significant progress has been made and there is confidence that more is likely, it may be appropriate to extend the review period and if deemed appropriate, modify the support put in place. The period of extension should be in relation to the areas of concern but performance extension periods should be no longer than 30 working days and attendance extension periods no longer than 12 working weeks.

If no or insufficient progress has been made, including following an extension period, when no warning is on file or during the live period of a first written warning, a capability meeting should be arranged as detailed under section 3.1.. If no or insufficient progress has been made during the live period of a final written warning, a capability hearing should be arranged as detailed under section 3.2.

When possible the employee will be informed personally by the capability manager. The employee should be clearly told the reasons for the decision and be left with no doubt about the action taken under this policy. In particularly complex cases, the capability manager may require further time for consideration. The decision will be conveyed by letter no later than 5 working days from the date of the meeting.

3.2. Capability Hearing

3.2.1. Capability Hearing

The purpose of the capability hearing is to consider the employee's continued future employment with the Trust. The hearing should take place within 30 working days of the employee being notified they have not met the required standards within the review period set.

The employee will be given at least 10 working days' written notice of the hearing. The letter will include:

- The date, time and place of the hearing;
- That the outcome may result in dismissal;
- A copy of the capability policy;
- The employee's entitlement to be accompanied by a trade union official or workplace colleague at the meeting;
- A copy of the management case report and associated documents;
- Details of the person chairing the hearing and the hearing panel, the capability manager or other suitable person presenting the management case, and any other attendees.

Should the employee be unable to attend the hearing for any reason, they may request an alternative date. The alternative date should be within 5 working days of the original hearing date. If the employee is unable to attend the rescheduled hearing for any reason, or fails to attend, the hearing may proceed and a decision made in the employee's absence. The employee will be given the opportunity to have their companion attend or provide a written statement in their absence.

Unavailability to attend hearings due to sickness will be reviewed on a case by case basis, where the employee may be referred to occupational health and/or consent be sought to contact the employee's doctor/specialist for further guidance.

The format of the capability hearing can be found in appendix 1.

3.2.2. Capability Hearing Panel

A capability hearing panel will consider the case at the hearing. A panel may consist of no more or no less than 3 persons. A panel will include at least one governor, and may also include directors, the CEO, the CEdO, the COO, or Principals from any Academy within The Trust.

The panel will consist of person(s) not involved in previous stages of the process.

The panel will be accompanied by a HR advisor.

A note taker will attend to take minutes of the proceedings.

It is the responsibility of the chair of the panel to:

- Ensure the hearing is conducted in a fair and orderly manner;
- Remain as impartial as possible;
- Be aware of and follow the correct procedures;
- Ensure both sides have an equal chance to present their case;
- Make reasonable efforts to assist an unrepresented employee with the presentation of their case.

3.2.3. Outcome of Capability Hearing

The outcome of the hearing will depend on the assessment by the capability hearing panel of the facts and circumstances of the case, and may include:

- no further action being taken;
- setting a final review period, refer to section 3.2.4.;
- a current live final written warning being extended for a further 24 months;
- redeployment;
- demotion;
- dismissal;
- any further action the panel deems appropriate.

When possible, the employee will be informed personally by the chair of the panel. The employee should be clearly told the reasons for the decision and be left with no doubt about the action taken under this policy. In particularly complex cases, the panel may require further time for consideration. The decision will be conveyed by letter no later than 5 working days from the date of the hearing.

3.2.4. Review period

During a review period, the employee's performance/attendance will be monitored and reviewed as indicated in the capability meeting/hearing and the recommended support will be provided.

A review period should be set with the employee's role, responsibilities and the areas of concern in mind, however, performance review periods should be no longer than 30 working days and attendance review periods no longer than 12 working weeks.

At the end of the review period the employee will be invited to attend a review hearing, refer to section 3.2.5.

3.2.5. Review Hearing

Where a capability hearing panel has arranged for a final review period, a review hearing will be arranged with the capability panel, where a final decision will be made. The employee will be given at least 10 working days' written notice of the hearing.

At the review hearing, the capability panel will assess the employee's progress against the standards set at the capability hearing.

Should the employee be unable to attend the meeting for any reason, they may request an alternative date. The alternative date should be within 5 working days of the original meeting date. If the employee is unable to attend the rescheduled meeting for any reason, or fails to attend, the meeting may proceed and a decision made in the employee's absence. The employee will be given the opportunity to have their companion attend or provide a written statement in their absence.

Unavailability to attend meetings due to sickness will be reviewed on a case by case basis, where the employee may be referred to occupational health and/or consent sought to contact the employee's doctor/specialist for further guidance.

1.1.1. Outcome of review hearing

If the capability panel is satisfied that the employee has made sufficient improvement, the capability procedure will cease and the employee will revert back to the performance management process.

If no or insufficient progress has been made, the outcome of the hearing may include:

- a current live final written warning being extended for a further 24 months;
- redeployment;
- demotion;
- dismissal;
- any further action the panel deems appropriate.

When possible the employee will be informed personally by the capability panel. The employee should be clearly told the reasons for the decision and be left with no doubt about the action taken under this policy. In particularly complex cases, the capability panel may require further time for consideration. The decision will be conveyed by letter no later than 5 working days from the date of the hearing.

3.3. Capability sanctions

3.3.1. First Written Warning

Where an employee does not meet the required performance or attendance standards, and currently has no live warnings, a first written warning may be issued. However, in cases of particularly serious concerns, where the education of the children is in jeopardy, it may be reasonable to issue a final written warning as detailed in section 3.3.2.

A first written warning will remain live for a period of 12 months.

3.3.2. Final Written Warning

If, despite a previous warning, performance or attendance standards have not improved in the live period of a first written warning, a final written warning may be issued.

A final written warning will remain live for a period of 24 months.

3.3.3. Dismissal

An employee's contract can be terminated if, despite previous warnings, performance or attendance standards have not improved in the live period of a final written warning.

Dismissal will be with contractual notice from the date the employee is notified such action is being taken; this would normally be during the capability hearing, however, will be no later than 5 working days after the hearing. Employees will not be required to work during their notice period.

3.4. Employee representative

At formal meetings and hearings under section 3, the employee may be accompanied by:

- A workplace colleague; or
- A trade union representative.

The representative has the right to address the meeting/hearing in order to:

- Confer with the employee;
- Put across the employee's case;
- Sum up the employee's case;
- Respond on the employee's behalf to any view expressed at the meeting.

The representative does not have the right to:

- Answer questions on the employee's behalf;
- Address the meeting/hearing if the employee does not wish him/her to do so;
- Prevent the capability manager from explaining his/her case.

If the representative is unavailable at the time the meeting is scheduled and will not be available for more than 5 working days afterwards, the employee may be required to seek alternative representation. By mutual agreement the 5 working days may be extended.

Employees do not have the right to be accompanied by relatives, friends or legal advisers unless they also meet the criteria above.

4. CAPABILITY APPEALS PROCEDURE

4.1. Appealing a capability warning

Employees may appeal against the decision to issue a first written warning or final written warning.

Appeals must be made in writing and received by the HR Department at hroffice@theparkfederation.org within 5 working days of the employee receiving the capability meeting outcome letter. The appeal must include details of the grounds of appeal. If this information is not provided within the 5 working days, it may be deemed the employee no longer wishes to pursue the appeal and the matter will be closed.

The appeal is against the decision to issue a warning at the capability meeting and is not another capability meeting. The employee can appeal on the following grounds:

- The Procedure – the grounds of appeal should detail how procedural irregularities prejudiced the decision;
- The Facts – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded, or detail any new evidence to be considered;
- The Decision – the grounds of appeal should state how the decision was too severe, taking into account the nature of the capability concerns and the mitigating circumstances.

Where new evidence is to be presented, this must be sent to the HR Department no later than 3 working days before the date of the appeal meeting otherwise it may not be considered.

Appeals received outside the 5 working days will only be accepted in exceptional circumstances.

The capability manager will provide a case management report in response to the employee's appeal, and will present their case at the appeal meeting.

4.1.1. Appeal officer

The appeal officer will be a Principal from another Academy within the Trust.

The appeal officer will not have been involved in previous stages of the process.

The appeal officer may be accompanied by a HR advisor.

A note taker will attend to take minutes of the meeting.

4.1.2. Capability appeal meeting

An appeal meeting will be arranged within 15 working days of receipt of the appeal details.

The employee will be given at least 5 working days' written notice of the meeting. The letter will include:

- The date, time and place of the meeting;
- The grounds of their appeal to be heard;
- A copy of the capability policy;
- The employee's entitlement to be accompanied by a trade union official or work place colleague at the meeting;
- A copy of the written appeal, case management report, documents from the capability meeting and any other associated documents;
- Details of the appeal officer, the capability manager or other suitable person presenting the management case, and any other attendees;
- That the decision of the appeal officer is final.

Should the employee be unable to attend the meeting for any reason, they may request an alternative date. The alternative date should be within 5 working days of the original meeting date. If the employee is unable to attend the rescheduled meeting for any reason, or fails to attend, the meeting may proceed and a decision made in the employee's absence. The employee will be given the opportunity to have their companion attend or provide a written statement in their absence.

It is the responsibility of the appeal officer to:

- Ensure the meeting is conducted in a fair and orderly manner;
- Remain as impartial as possible;
- Be aware of and follow the correct procedures;
- Ensure both sides have an equal chance to present their case;
- Make reasonable efforts to assist an unrepresented employee with the presentation of their case.

The format of the appeal meeting can be found in appendix 2.

4.1.3. Outcome of the appeal meeting

An appeal meeting will result in one of the following outcomes:

- The appeal is upheld, the warning issued by the capability manager is withdrawn, and, where relevant, the expected standards detailed;
- The appeal is not upheld and the warning remains;
- Any other action the appeal officer might consider to be appropriate and reasonable depending on the circumstances of each case.

When possible the employee will be informed personally by the appeal officer. The employee should be clearly told the reasons for the decision and be left with no doubt about the action taken under this policy. In particularly complex cases, the appeal officer may require further time for consideration. The decision will be conveyed by letter no later than 5 working days from the date of the meeting.

The decision of the appeal officer is final.

4.2. Appealing a capability dismissal

Employees have a right to appeal against the decision to dismiss.

Appeals must be made in writing and received by the HR Department at hroffice@theparkfederation.org within 10 working days of the employee receiving the capability hearing outcome letter. The appeal must include details of the grounds of appeal. If this information is not provided within the 10 working days, it may be deemed the employee no longer wishes to pursue the appeal and the matter will be closed.

The appeal is against the dismissal decision reached at the capability hearing and is not a re-hearing of the case. The employee can appeal on the following grounds:

- The Procedure – the grounds of appeal should detail how procedural irregularities prejudiced the decision;
- The Facts – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded, or detail any new evidence to be considered;
- The Decision – the grounds of appeal should state how the decision was too severe, taking into account the nature of any absence and/or the mitigating circumstances.

Appeals received outside the 10 working days will only be accepted in exceptional circumstances.
The chair of the capability hearing panel will provide a case management report in response to the employee's appeal, and will present their case at the appeal hearing.

Where new evidence is to be presented, this must be sent to the HR Department no later than 5 working days before the date of the appeal hearing otherwise it may not be considered. The capability manager may be asked to attend the hearing, as a witness, to discuss the new information and the impact on the Academy.

4.2.1. Appeal panel

An appeal panel may consist of no more or no less than 3 persons. A panel will include at least one Governor, and may also include Directors, the CEO, the COO, or Principals from any Academy within The Trust.

The panel will consist of person(s) not involved in previous stages of the process.

The appeal panel will be accompanied by a HR advisor.

A note taker will attend to take minutes of the proceedings.

4.2.2. Capability appeal hearing

An appeal hearing will be arranged within 30 working days of receipt of the appeal details.

The employee will be given at least 10 working days' written notice of the meeting. The letter will include:

- The date, time and place of the hearing;
- The grounds of their appeal to be heard;
- A copy of the capability policy;
- The employee's entitlement to be accompanied by a trade union official or work place colleague at the hearing;
- A copy of the written appeal, case management report, documents from the capability hearing and any other associated documents;
- Details of the person chairing the hearing and the hearing panel, the Chair of the capability hearing panel or other suitable person presenting the management case, and any other attendees;
- That the decision of the Appeal Panel is final.

Should the employee be unable to attend the hearing for any reason, they may request an alternative date. The alternative date should be within 5 working days of the original hearing date. If the employee is unable to attend the rescheduled hearing for any reason, or fails to attend, the hearing may proceed and a decision made in the

employee's absence. The employee will be given the opportunity to have their companion attend or provide a written statement in their absence.

It is the responsibility of the chair of the panel to:

- Ensure the hearing is conducted in a fair and orderly manner;
- Remain as impartial as possible;
- Be aware of and follow the correct procedures;
- Ensure both sides have an equal chance to present their case;
- Make reasonable efforts to assist an unrepresented employee with the presentation of their case.

The format of the appeal hearing can be found in Appendix 3.

4.2.3. Outcome of the appeal hearing

An appeal hearing will result in one of the following outcomes:

- The appeal is upheld and the employee is reinstated, and, where relevant, the review period and criteria re-visited;
- The appeal is not upheld and the dismissal stands;
- Any other action the panel might consider to be appropriate and reasonable depending on the circumstances of each case.

When possible the employee will be informed personally by the chair of the panel. The employee should be clearly told the reasons for the decision and be left with no doubt about the action taken under this policy. In particularly complex cases, the panel may require further time for consideration. The decision will be conveyed by letter no later than 5 working days from the date of the hearing.

The decision of the appeal panel is final.

4.3. Employee representative

At formal meetings and hearings under section 4, the employee may be accompanied by:

- A workplace colleague; or
- A trade union representative.

The representative has the right to address the meeting/hearing in order to:

- Confer with the employee;
- Put across the employee's case;
- Sum up the employee's case;
- Respond on the employee's behalf to any view expressed at the meeting.

The representative does not have the right to:

- Answer questions on the employee's behalf;
- Address the meeting/hearing if the employee does not wish him/her to do so;
- Prevent the Capability Manager/Chair of Capability Panel from explaining his/her case.

If the representative is unavailable at the time the meeting is scheduled and will not be available for more than 5 working days afterwards, the employee may be required to seek alternative representation. By mutual agreement the 5 working days may be extended.

Employees do not have the right to be accompanied by relatives, friends or legal advisers unless they also meet the criteria above.

APPENIDX 1 – CAPABILITY HEARING FORMAT

The capability manager, the employee and their companion should remain outside the room, or in the designated area, until called upon to enter.

1. The Chair of the Capability Hearing Panel ("the Chair") will open the hearing stating the reasons for the hearing and explain the procedure to be followed.

2. The Chair will ask the capability manager to present the management case.

3. The Chair will invite the employee and their companion to ask questions of the capability manager.

4. The Panel may ask questions of the capability manager.

5. The Chair will ask the employee and/or the employee's companion to present the employee's case.

6. The Chair will invite the capability manager to ask questions of the employee and/or the employee's companion.

7. The Panel may ask questions of the employee and/or the employee's companion.

8. The Chair will invite both parties to sum up their case in the order in which they were presented. The Chair may allow for a brief adjournment to allow both parties to prepare their summations.

9. During the summing up, no new evidence should be introduced by either party.

10. Following the summations, the Chair will ask both parties to withdraw to allow a decision to be reached based on the information presented. The Panel will remain accompanied by the HR Advisor and note taker during deliberations.

11. If there is any uncertainty about the information presented, or the discussion raises the need for further questioning of either party's information, the Chair should invite both parties to return so that further clarification can be sought from either or both parties.

12. If the Panel wishes to question either party on matters which have not already been raised, or new evidence emerges at this stage, either party may request an adjournment to carry out further investigation before responding. The Chair will make a decision on any such requests including the length of any adjournment.

13. Once the Panel has reached a decision, both parties should be recalled and informed of the decision.

14. At times, due to the complex nature of the case and the extent of the information presented, it may not always be possible for the Panel to reach a decision within the timeframes set for the day. In these circumstances, the employee will be notified of the decision and the corresponding reasons in writing within 5 working days of the date of the hearing.

APPENIDX 2 – CAPABILITY APPEAL MEETING FORMAT

The capability manager, the employee and their companion should remain outside the room, or in the designated area, until called upon to enter.

1. The appeal officer will open the hearing and explain the procedure to be followed and stating the grounds of appeal.

2. The appeal officer will ask the employee and/or the employee's companion to present the employee's case.

3. The appeal officer will invite the capability manager to ask questions of the employee and/or the employee's companion.

4. The appeal officer may ask questions of the employee and/or the employee's companion.

5. The appeal officer will ask the capability manager to present the management case.

6. The appeal officer will invite the employee and their companion to ask questions of the capability manager.

7. The appeal officer may ask questions of the capability manager.

8. The appeal officer will invite both parties to sum up their case in the order in which they were presented. The appeal officer may allow for a brief adjournment to allow both parties to prepare their summations.

9. During the summing up, no new evidence should be introduced by either party.

10. Following the summations, the appeal officer will ask both parties to withdraw to allow a decision to be reached based on the evidence presented. The appeal officer will remain accompanied by the HR Advisor and note taker during deliberations.

11. If there is any uncertainty about the information presented, or the discussion raises the need for further questioning of either party's evidence, the appeal officer should invite both parties to return so that further clarification can be sought from either or both parties.

12. Once the appeal officer has reached a decision, both parties should be recalled and informed of the decision.

13. At times, due to the complex nature of the case and the extent of the evidence presented, it may not always be possible for the appeal officer to reach a decision within the timeframes set for the day. In these circumstances, the employee will be notified of the decision and the corresponding reasons in writing within 5 working days of the date of the hearing.

APPENIDX 3 – CAPABILITY APPEAL HEARING FORMAT

The Capability Hearing Panel member, the employee and their companion should remain outside the room, or in the designated area, until called upon to enter.

1. The Chair of the Appeal Panel ("The Chair") will open the hearing and explain the procedure to be followed and stating the grounds of appeal.

2. The Chair will ask the employee and/or the employee's companion to present the employee's case.

3. The Chair will invite the Hearing Panel member to ask questions of the employee and/or the employee's companion.

4. The Appeal Panel may ask questions of the employee and/or the employee's companion.

5. The Chair will ask the Hearing Panel member to present the management case.

6. The Chair will invite the employee and their companion to ask questions of the Hearing Panel member.

7. The Appeal Panel may ask questions of the Hearing Panel member.

8. Where the appeal is on the grounds of new information, the capability manager may be asked to attend the hearing, as a witness, to discuss the new information and the impact on the Academy. Both parties and the Appeal Panel will be able to ask questions of the capability manager.

9. The Appeal Panel will invite both parties to sum up their case in the order in which they were presented. The Chair may allow for a brief adjournment to allow both parties to prepare their summations.

10. During the summing up, no new evidence should be introduced by either party.

11. Following the summations, the Chair will ask both parties to withdraw to allow a decision to be reached based on the evidence presented. The Appeal Panel will remain accompanied by the HR Advisor and note taker during deliberations.

12. If there is any uncertainty about the information presented, or the discussion raises the need for further questioning of either party's evidence, the Chair should invite both parties to return so that further clarification can be sought from either or both parties.

13. Once the Appeal Panel has reached a decision, both parties should be recalled and informed of the decision.

14. At times, due to the complex nature of the case and the extent of the evidence presented, it may not always be possible for the Appeal Panel to reach a decision within the timeframes set for the day. In these circumstances, the employee will be notified of the decision and the corresponding reasons in writing within 5 working days of the date of the hearing.